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KRISTINE C. BRUNO

Docket No.:**11590/9-1268**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Applicant: Leonard E. Marchese — Conf. No. 1815

Serial No.: 09/613,980 — Group Art Unit: 2151

Filed: July 11, 2000 — Examiner: Khanh Q Dinh

For : ELECTRONIC SPACE AND METHOD FOR FACILITATING PROBLEM SOLVING

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL

Sir:

Enclosed is an Appeal Brief, in triplicate, in the above-identified patent application, together with a check for $310.00, representing payment of the required appeal brief fee of $250.00 and the $60.00 fee for a one month extension of time.

The Commissioner is authorized to charge any deficiency or credit any excess in this fee to Deposit Account No. 04-0838.

Dated: May 4, 2005

Respectfully submitted,

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APPEAL BRIEF

Sir:

This is an appeal by the Applicant from the Final Rejection dated October 7, 2004 of claims 21, 22, 24-30, 32 and 34-37 of the above-identified application. The appealed claims appear in Appendix A.

REAL PARTY IN INTEREST

The real party in interest is the inventor, Leonard E. Marchese.

RELATED PROCEEDINGS

There are no related appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

STATUS OF CLAIMS

Claims 1 through 20 were originally in this application. During prosecution claims 1-20 were cancelled and claims 21-38 added. Claims 23, 31, 33, and 38 were later cancelled and claims 21, 32 and 36 amended. Claims 21, 22, 24-30, 32 and 34-37 are pending, rejected, and the subject of this appeal.

STATUS OF AMENDMENTS

No amendments were made subsequent to the Final Rejection which issued on October 7, 2004. The pending claims appear in Appendix A.

SUMMARY OF CLAIMED INVENTION

The Applicant's invention is directed to an electronic room space, best shown in applicant's Fig. 2. An important characteristic of the invention is the user is able to create a workplace in the form of a "room" image on a display device. This is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common

electronic space or "meeting room". Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Each of independent claims 21, 26 and 32 incorporate an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (P. 5, l. 3-7; P.10, l.15-18; P.14, l.20 - P.15, L.5; P. 17, L. 8-12). The dispatcher locates resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting.

ISSUES

1. WHETHER CLAIMS 21, 22, 24-30, 32 and 34-37 ARE OBVIOUS UNDER 35 U.S.C. § 103(a) OVER FULTON, U.S. PATENT NO. 6,182,052 IN VIEW OF KIRK, U.S. PATENT NO. 6,185,842.

GROUPING OF CLAIMS

The applicant believes the pending claims constitute a single group, illustrated in independent claims 21, 26 and 32. All the claims are believed to stand or fall together.

ARGUMENT

I. FULTON IS A SMART PHONE SYSTEM

The examiner cites Fulton as disclosing "a system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving". That is incorrect.

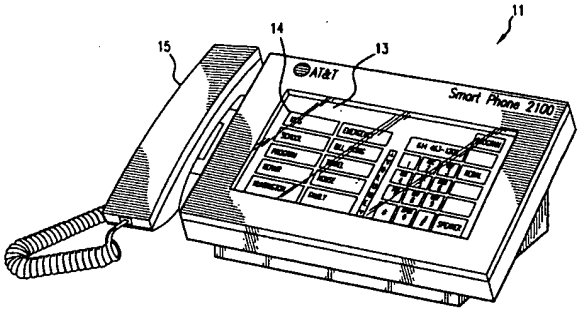


FIG.1A

Fulton is directed to a "Smart Phone" system for completing secure financial transactions: "The terminal 11 is a combined telephone and modem that features a touch sensitive liquid crystal touch screen display 13 with 'buttons' 14 that the user touches to access services. The interactive touch screen display 13 is the user accessible aspect of the terminal interface...The terminal may include a telephone handset 15 for voice communications." (col. 4, l.54 - 65).

Fulton discloses a user interface for a dial up communications network which provides for the completion of various transactions. It is a menu driven system. The user uses buttons on the phone for communication with the various systems supporting the services offered, illustrated by various examples such as Banking, Bill Paying, Shopping, etc. (Fig. 1, Col. 4, l. 7-39)

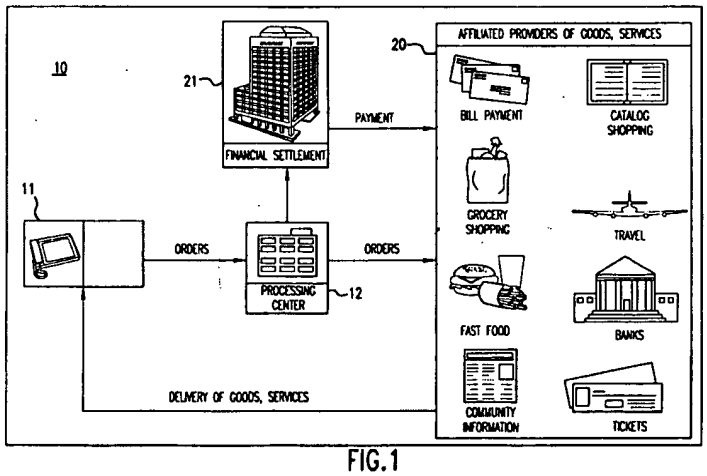


FIG.1

The process begins with sign-on. The user must provide identification and other details before accessing an account or completing a transaction, after which the user views the "main menu". The displayed menus are illustrated in the screen shots depicted in Figures 2-13.

In Fulton, the user has no ability to select displayed items. The user is only presented with preconfigured menus for initiating various transactions.

The applicants' invention has means for generating "user configurable electronic spaces...configured for computer based display as a virtual room" and "means for each user to configure an individual room". The ability to customize the room is an essential feature of the present invention. That ability, among others, is missing from Fulton.

Each of the independent claims requires the electronic space to include 1) an electronic intelligent agent application integrated with the electronic space and programmed for interaction with at least one user within the individualized electronic room space, and 2) at least one iconic image representing means for engaging a dispatcher for locating resources and tools for the user. Nowhere in Fulton is such an intelligent agent included, nor is a dispatcher available for locating and facilitating the exchange of information with, for example, an expert in a particular field.

Figure 4a

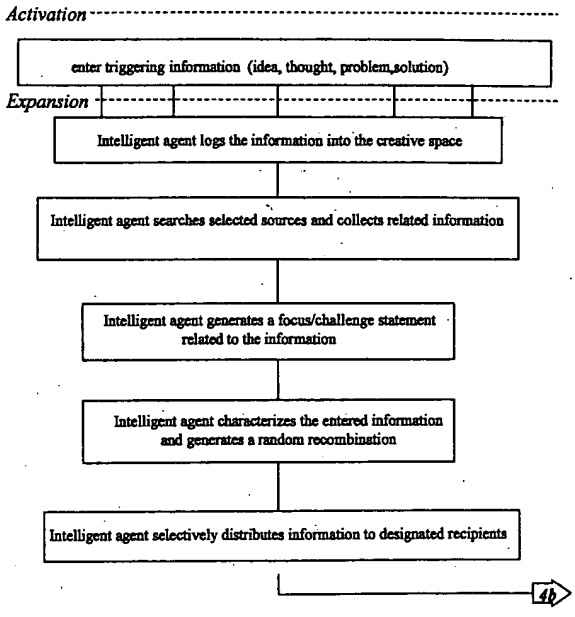
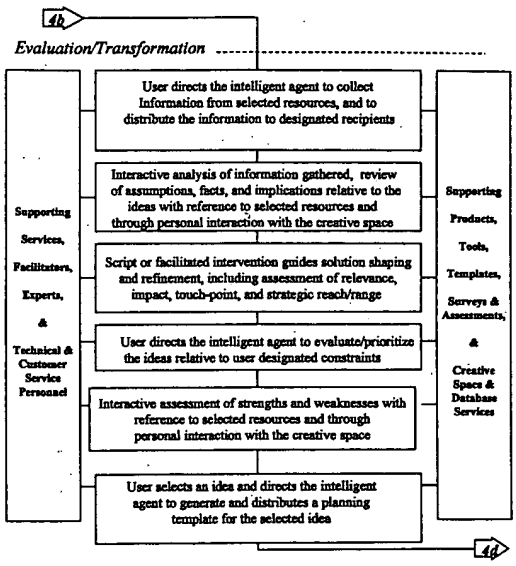


Figure 4c



This dynamic interactive exchange with an intelligent agent application is not taught or suggested in Fultons' dial-up communications network.

II. THERE IS NO MOTIVATION TO COMBINE FULTON WITH KIRK

The examiner proposed a combination of Fulton with Kirk. Kirk relates to a virtual 3D browser. "The system...allows the presentation of 3-D information to the user and allows the user to interact with the information, as if the user were 'in' the environment. This enables a new and complimentary set of user experiences over the network compared to that of conventional browsing." (Col. 2, l. 54-59) A "chat room" environment can be included for social interaction, and rooms hyperlinked to mimic hypertext browsing behavior. (C. 3, l. 55-60).

One skilled in the art would find no teaching or suggestion for combining the dial up communication network of Fulton with the 3-D browser of Kirk, considering the technologies and purposes of each reference to be distinct. Even if made, the combination would not arrive at the applicants' invention.

Fulton uses a system with preconfigured displays for undertaking various financial transaction, like banking, shopping, etc, using a "smart phone" that is, an enhanced

telecommunication device. Kirk relates to a system for enhanced internet browsing. While various interactions are discussed, these mimic conventional browsing, but done within a virtual environment.

It is difficult to contemplate how one integrates a virtual environment browser with a dial up network communications system. One skilled in the art would recognize that these are not readily combinable, and see no advantage to the combination. Fulton does not contemplate creating a virtual "workplace", that is, a 3-D office where a person can create work product and have access to personally selected specific resources designed to support a creative work environment. Such an electronic space is not taught or suggested in the prior art.

The examiner found a motivation as follows: "it would have been obvious to one of ordinary skill in the art....to implement Kirk's VR network in the computer system of Fulton to moderate data communication between users...". This has no support in Fulton. All communication is between an individual user and the system; all processing done in the background. Such secure financial transactions are not undertaken in an open environment "between users", but between a user and the system.

The examiner glossed over this deficiency and further alleged that this combination "... would have ensured data communication between members of the same VR and tracked communication between users occupying the same VR." However, Fulton has no VR rooms, nor do users' communicate with each other. They push buttons on a phone, and there is little motivation to combine this with the browser of Kirk.

Moreover, the proposed combination would require substantial modifications to Fulton. For example, the "smart phone" user interface must be replaced with a device capable of presenting a 3-D virtual environment to make the combination.

There is no motivation found in either reference to support modifying Fulton as the

examiner proposes. Rather, the examiner has engaged in a hindsight reconstruction, picking and choosing only those elements believed to arrive at the applicant's invention without any teaching, suggestion or incentive to do so.

III. THE INTELLIGENT AGENT AND DISPATCHER ARE MISSING

The claims require the presence of an integrated intelligent agent which interacts with the user and to assist in problem solving. The system and method also provide for a dispatcher to locate resources that the user believes may assist in the problem solving process, whether that be technical information, application software or an expert in the field. In other words, this virtual workspace enables a person to "work" in the virtual environment is a very efficient way, not only interacting with the intelligent agent and specific resources, but with coworkers as well. Figures 4a-d illustrate the value of the interchange with the intelligent agent. Project teams can be assembled to work together in a virtual environment, each member having their particular user configured resources available in their virtual rooms for ready access.

The examiner alleges these limitations are met by Kirk, i.e. "configuring a co-space server, communicating with other servers and data bases to monitor virtual clients....". However, this does not satisfy the claim limitations.

The co-space server is configured as "a receiver, a virtual three dimensional room builder, and a sender." Col. 6, l.47-50. In other words, it sets up the VR room and maintains the VR room for use. The co-server, similar to other servers, operates in the background. It does not interact with the user by supports communications through the server. It has no means for engaging a dispatcher for locating resources and tools for the user. It merely supports the virtual environment. Nowhere is there any teaching or suggestion for the use of an intelligent agent or dispatcher to facilitate problem solving and so the claimed invention is not obvious in

view of the combination.

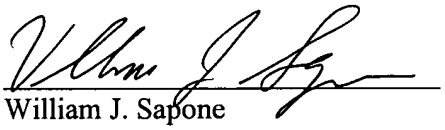
CONCLUSION

To establish a prima facie case of obviousness based on a combination of various references, there must be some teaching, suggestion or motivation in the prior art to make the specific combination that was made by the applicant. In re Raynes, 7 F.3d 1037, 1039, 28 U.S.P.Q.2D (BNA) 1630, 1631 (Fed. Cir. 1993); In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2D (BNA) 1443, 1445 (Fed. Cir. 1992). Obviousness can not be established by hindsight combination to produce the claimed invention. In re Gorman, 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991). As discussed in Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 U.S.P.Q. (BNA) 543, 551 (Fed. Cir. 1985), it is the prior art itself, and not the applicant's achievement, that must establish the obviousness of the combination.

The examiner has engaged in a hindsight reconstruction and combined references in a way not taught or suggested by the prior art. Given a fair reading of the references as a whole, claims 21, 22, 24-30, 32 and 34-37 are unobvious and reversal of the rejection is respectfully requested.

Dated: May 4, 2005

Respectfully submitted,



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APPENDIX A

21. A system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving, the system comprising:

a host/server disposed on a network;

a plurality of devices connectable to the host/server via the network;

means for generating a plurality of user configurable electronic spaces, each electronic space configured for computer based display as a virtual room on display devices of each of the plurality of users, the electronic room spaces supported on the network;

means for each user to configure an individualized room by selecting graphic, textual and application information and resources for display in the individualized room, each configured and displayed as selectable iconic images located in the individualized room;

means for each user to access a respective individualized electronic room and means for actuating the selected iconic images for accessing the graphic, textual and application information and resources within the individualized electronic room space;

an intelligent agent application supported on the host/server for interacting with each user accessing an individualized electronic room;

means for monitoring the intelligent agent and means for engaging a dispatcher for locating resources and tools for the user responsive to the intelligent agent; and

means for storing and displaying the plurality of individualized electronic spaces.

22. The system of claim 21 wherein the host server has processing means, communication means and storage means.

24. The system of claim 21 further comprising means for generating at least one

common electronic room configured for computer generated display as a virtual room, and being accessible by two or more selected users, the common room configured by the selected users, and means for supporting interactive communication between the selected users within the common room, displayed on each selected user's local display device.

25. The system of claim 21 wherein the selected resources are selected from the group consisting of search engines, databases, experts, technical information, work processing applications, spread sheet applications, presentation applications, planning applications, and communication applications.

26. An electronic space supported on a network and being accessible by a user, the electronic space comprising:

a computer generated image of a room viewable on a computer display device, the room image containing selected graphical and textual information visually displayed as decorative images or furnishing images within the room image, one or more images being settable as one or more iconic images activatable to access at least one selected resource or software application, each actively accessible selected resource or software application being usable within the room image, wherein a user creates an interactive and individualized computer generated room image furnished with selected decorative images and selected furnishing images, an electronic intelligent agent application integrated with the electronic space and programmed for interaction with at least one user within the individualized electronic room space, and at least one iconic image representing means for engaging a dispatcher for locating resources and tools for the user.

27. The electronic space of claim 26 further comprising iconic images representing active transport links between a plurality of electronic room spaces, such that a user can move

from one electronic room to another electronic room by actuating an associated transport link.

28. The electronic space of claim 27 wherein at least one active transport link image is selected from the group consisting of a door image, a window image, a painting image and a photograph image.

29. The electronic space of claim 26 further comprising a computer generated image of a common room area simultaneously viewable on a plurality of display devices and being accessible by multiple users, and having means for the multiple users to be visually represented within the common room area for interactive communication therein.

30. The electronic space of claim 26 wherein the electronic space is supported on the network by at least one data processing device having processing means, data storage means, communication means, and means to generate and display the room image.

32. A method for use of a computer based data processing system to enhance creating thinking comprising:

providing a computer based data processing system;

using the computer based data processing system to generate an electronic space represented as a computer generated image of a room viewed on a computer display device;

configuring the electronic space to contain activatable links represented as icons within the room, the icons linked to a plurality of data resources, human resources and software applications;

selecting at least one activatable icon and linking to the resource selected by the user; and using the resource within the electronic room space;

providing an intelligent agent application programmed for interaction with the user within the electronic room space;

using the intelligent agent to view and select the activatable links for incorporation in the electronic room space, and

providing access to a dispatcher for locating resources and tools for the user.

34. The method of claim 32 further comprising communicating with designated recipients within the electronic room space, each recipient having a computer generated display of the room image on a local display device, the designated recipients interacting within the electronic room space.

35. The method of claim 32 further comprising using the intelligent agent application within the electronic room space to transform a user input and displaying the transformed user input within the electronic room space.

36. The method of claim 32 further comprising using the data processing system to generate a common electronic room space represented as an image of a meeting room on the display device, the common electronic room space simultaneously accessible and configurable by multiple users, each of which has a local display of the common electronic room space, and interacting within the meeting room.

37. The method of claim 32 further comprising using the data processing system to generate user selected iconic representations of activatable links to user selected entertainment resources.